

4 Commission Staff (Staff) reviewed the request and recommends granting Darigold's request for exemption, subject to the following condition(s):

- (a) Darigold must maintain the existing "Danger – Not Sufficient Clearance" signs, as depicted in the petition attachment, facing approaching rail traffic on each side of the turnout switch points where Darigold Tracks 1 and 2 diverge.
- (b) Darigold must maintain the existing overhead illumination during operations occurring during hours of darkness.
- (c) Central Washington Railroad must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the date of this order.

DISCUSSION

5 WAC 480-60-050 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to adjacent structures. These general side clearance requirements apply to the Darigold facility and permanent exemption from these rules is required for any structures not meeting these requirements.

6 Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

7 Although train crewmembers have no reason to ride a rail car at this location, any clearance exemption should be conditioned upon a prohibition against riding on the side of a rail car and clearly signing the location as having reduced side clearances.

8 The Commission determines that Darigold's request for clearance exemption for its Sunnyside facility is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes. The Commission grants the exemption subject to Staff's recommended conditions listed in paragraph 4.

FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington having jurisdiction over public service companies, including railroad companies, within the state of

Washington. RCW 80.01.040, Chapter 81.01 RCW, Chapter 81.04 RCW, and Chapter 81.53 RCW.

- 10 (2) Central Washington Railroad is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 11 (3) Central Washington Railroad is subject to WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the center of the track to adjacent structures.
- 12 (4) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60, if consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 13 (5) A restricted clearance can exist, and safety can be maintained, if Darigold maintains approved warning signs facing approaching rail traffic on each side of the turnout switch points where Darigold Tracks 1 and 2 diverge and provides illumination during operation occurring during hours of darkness, and if Central Washington Railroad provides written notification of the restricted clearances to its employees.
- 14 (6) Staff investigated the request and recommends that permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on October 12, 2023.
- 16 (8) After review of the petition filed by Darigold on September 5, 2023, and giving due consideration, the Commission finds that the exemption is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

ORDER

THE COMMISSION ORDERS:

- 17 (1) After the effective date of this Order, Darigold Inc. is granted exemption from
WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Darigold Inc. must maintain the existing “Danger – Not Sufficient Clearance” signs, as depicted in the petition attachment, facing approaching rail traffic on each side of the turnout switch points where Darigold Inc. Tracks 1 and 2 diverge.
 - (b) Darigold Inc. must maintain the existing overhead illumination during operations occurring during hours of darkness.
 - (c) Central Washington Railroad Company must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the date of this order.
- 19 (3) The Commission retains jurisdiction over the subject matter and Central Washington Railroad Company to effectuate the provisions of this Order.
- 20 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective October 12, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER
Acting Executive Director and Secretary